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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,298	10/28/2003	Mark Zwicker	10203.85USU1	5116

23552 7590 07/06/2007  
MERCHANT & GOULD PC  
P.O. BOX 2903  
MINNEAPOLIS, MN 55402-0903

EXAMINER
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NELSON, FREDA ANN

ART UNIT	PAPER NUMBER
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3628.

MAIL DATE	DELIVERY MODE
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07/06/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/696,298	ZWICKER ET AL.	
	Examiner	Art Unit	
	Freda A. Nelson	3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☒ Claim(s) 30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This is in response to a letter for a patent filed October 28, 2003 in which claims 1-35 were presented for examination. Claims 1-35 are pending.

#### **Information Disclosure Statement**

The information disclosure statements (IDSs) submitted on 10/16/2003 and 12/08/03 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the examiner. Copies of PTO-1449s are attached.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-2 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the available products" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the amount" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the pricing data" in line 10. There is insufficient antecedent basis for this limitation in the claim.

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Regarding claim 1, the phrase "may be increased" renders the claim indefinite because it is unclear if the dealer price is actually increased. Because the examiner is unable to determine what the applicant is claiming by the claim language "may be increased", the examiner takes the position that the dealer price is not increased.

Regarding claim 2, the phrase "may be configured" renders the claim indefinite because it is unclear if the product is actually increased. Because the examiner is unable to determine what the applicant is claiming by the claim language "may be configured", the examiner takes the position that the product is not configured.

Claim 6 recites the limitation "the amount" in line 2. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Objections***

2. Claim 30 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. §101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement

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thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 30 is rejected under 35 U.S.C. § 101 because the claimed inventions are directed to non-statutory subject matter.

Claim 30 is directed to disembodied data structure which are per se not statutory. C.f. *In re Wamerdam*.

A claim to a computer readable medium encoded with functional descriptive material that can function with a computer to effect a practical application that results in a useful, concrete and tangible result (i.e. running an assembly line or executing a stock transaction) satisfies Section 101. See U.S. Patent 5,710,578 to Beauregard etc., i.e., a set of instructions in combination with a computer system. C.f. *In re Wamerdam* (data structure stored in a computer memory), and *In re Lowery*, 32 USPQ2d 1031 (Fed. Cir. 1994) (data structure in a computer readable medium). Examples of Statutory Functional Descriptive Material are: (a) a claimed computer-readable medium encoded with a functional data structure - this defines structural and functional relationships between the data structure and the hardware/software components, see *Wamerdam*; (b) a claimed computer-readable medium encoded with a computer program - this defines structural and functional relationships between the computer program and the computer itself which allows the program's functionality to be realized provided that a useful, concrete and tangible result is realized; see U.S. Patent 5,710,578 to Beauregard et al. Data merely stored in a computer readable medium to be read or outputted by a computer without any functional

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interrelationship, and thus do not impart functionality to the computer, i.e., they are not computer components. Examples of Non-Functional Descriptive Material include music, literature, art, photographs, data base per se, and are directed to neither a "process" nor a "machine," but rather embrace or overlap two different statutory classes of invention set forth in 35 U.S.C. 101, which is drafted so as to set forth the statutory classes of invention in the alternative only. *Id.* at 1551.

### ***Examiner Note***

Examiner cites particular pages, columns, paragraphs and/or line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alfred et al. (US PG Pub. 2003/0187808), in view of Thompson et al. (US PG Pub. 2004/0068485), still in further view of Whiteknucklewelding.com.

As per claims 1, 12, and 21, Alfred et al. disclose an index product module for displaying all of the available products that may be configured (FIG. 7);

a markup module for specifying the amount a dealer price may be increased for a product and optional item based upon a specified figure ([0004],[0016],[0060]; FIG. 3);

a price quoting generation module for selecting the product and optional items to be included within a configured product, the price quoting generation module generates a customer price for the product, selected optional items, and a total price for the configured product using the pricing data from the markup module (FIGS. 7 and 8); and

a quote sheet module for generating a quote sheet document containing information describing the configured product and its generated price (FIG. 8).

Alfred et al. do not expressly disclose a system for marine product configuration and pricing system.

However, Thompson et al. discloses although the preferred embodiments disclosed herein have been particularly described as applied to a configuration system and method for configuration of specific exemplary products (e.g., windows and doors), it should be readily apparent that the invention may be embodied to provide configuration and estimation functionality for any number of products, services or the like where configured, customized or assembled-to-

order products/services are evaluated, selected, purchased, sold, supported, or otherwise considered (paragraph [0035]).

Whiteknucklewelding.com discloses that they specialize in Custom Marine products such as, T-Tops, RADAR Arches, Half Towers and Railings (see page 2).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Alfred et al. to include the feature of Thompson et al. and Whiteknucklewelding.com, in order to provide a user a quote for a customized marine product.

As per claims 2-5, Alfred et al. do not expressly disclose wherein the index product module includes a second hyperlink corresponding to every product to be configured, the second hyperlink presents specification data corresponding to a particular product, wherein the specification data is displayed within an HTML document; wherein the specification data is displayed within a PDF document.

As per claims 6-7, Alfred et al. disclose the system according to claim 1, wherein the price quoting generation module utilizes a markup percentage value to specify the amount a dealer price is to be increased when generating a customer price (paragraph [0060]); and wherein the price quoting generation module utilizes a margin percentage value to specify the amount a dealer price is to be increased when generating a customer price (paragraph [0060]).

As per claim 8, Alfred et al. disclose the system according to claim 1, wherein the quote sheet module generates the quote sheet document containing only customer pricing (FIG. 8).

As per claim 9, Alfred et al. disclose the system according to claim 1, wherein the quote sheet module generates the quote sheet document containing only dealer pricing (paragraphs [0054],[0071][0108]).

As per claims 10, 19, and 28, Alfred et al. disclose the system according to claim 1, wherein the quote sheet module generates the quote sheet document containing both dealer pricing and customer pricing (paragraph [0108]).

As per claims 11, 13 and 22, Alfred et al. discloses the system wherein the quote sheet module further generates an optional item order sheet document for each optional item included within the configured product (FIG. 7); and wherein the price increase value corresponding to a group of the selected one or more selected optional items corresponds to a single group price increase value specified in a set of price increase values (FIG. 7).

As per claim 14-15 and 23-24, Alfred et al. discloses the method according to claim 13, wherein the price increase value is defined as a markup percentage value (paragraph [0060]); and wherein the price increase value is

defined as a margin percentage value (paragraph [0070]).

As per claims 16 and 25, Alfred et al. discloses the method, wherein the method further comprises modifying the price increase value for at least one of the price increase value corresponding to one of the selected optional items to generate a modified individual price quote document (paragraph [0108]).

As per claims 17-18 and 26-27, Alfred et al. disclose the method the method, wherein the individualized price quote document includes the customer price (paragraph [0108]); and wherein the individualized price quote document includes the dealer costs (paragraph [0108]).

As per claims 20 and 29, Alfred et al. disclose the method, wherein the method further comprises generating a set of ordering documents, each order document in the set of ordering documents corresponds to each of the selected optional items (FIGS. 7 and 8).

As per claim 30, Alfred et al. disclose the computer data product corresponds to a computer readable storage media (paragraphs [0022],[0040]).

***Conclusion***

5. The examiner has cited prior art of interest, for example:

1) Anabtawi et al. (US PG Pub. 2003/0046179), which discloses a vehicle shopping and buying system and method.

2) Chaves (US PG Pub. 2001/0044769), which discloses motor vehicle dealer e-tailing.

3) Fusz et al. (US Patent Number 7,103,568), which discloses an online product exchange system.

4) Hanzek (US Patent Number 6,980,963), which discloses an online system and method of status inquiry and tracking related to orders for consumer product having specific configurations.

5) McMahon et al. (US PG Pub. 2001/0034726), which disclose a method and system for automating quote generation.

6) Mehrotra et al. (US PG Pub. 2003/0167222), which discloses a method and apparatus for marketing within a complex product space.

7) Sarkisian et al. (US Patent Number 7,103,561), which discloses a method of profiling new vehicles and improvements.

8) Swimplatforms.com

9) Aluminumboat.co.nz

10) Customboats.com

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Freda A. Nelson whose telephone number is

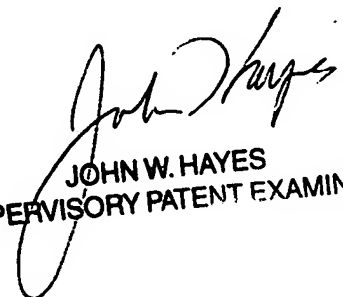
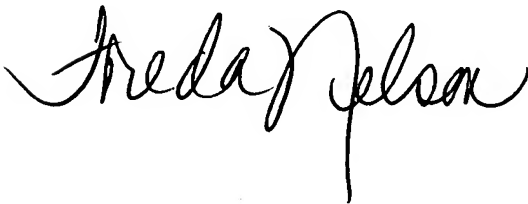
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(571) 272-7076. The examiner can normally be reached on Monday - Wednesday and Friday, 10:00 AM -6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FAN 06/23/2007



JOHN W. HAYES  
SUPERVISORY PATENT EXAMINER